

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CLINTON F HITNER,	:	No. 1:21-CV-0430
	:	
Plaintiff	:	
	:	Judge Conner
	:	
v.	:	
	:	
CORRECTIONS CAPTAIN REESE,	:	Electronically Filed Document
CORRECTIONS LT. NEWBERRY,	:	<i>Complaint Filed 03/10/21</i>
JOHN DOE (1), JOHN DOE (2) and	:	
JOHN DOE (3),	:	
	:	
Defendants	:	

**COMMONWEALTH DEFENDANTS' ANSWER &
AFFIRMATIVE DEFENSES**

Commonwealth Defendants, Reese and Newberry, through counsel, hereby file this Answer and Affirmative Defenses in response to Plaintiff's Complaint. It is noted that this Counsel does not represent any of the John Does named as Defendants in this action. In order to fully respond to the Complaint, Commonwealth Defendants respond to each heading within the Complaint and have clearly marked responses below.

I. NATURE OF COMPLAINT (This is an organizational heading to which no response is required. To the extent a response is required, DENIED.)

This is a conclusion of law to which no response is required. To the extent that a response is required, DENIED

II. ADDRESSES AND INFORMATION (This is an organizational heading to which no response is required. To the extent a response is required, DENIED.)

a. PLAINTIFF

ADMITTED.

b. DEFENDANT(S)

i. Defendant 1: Corrections Captain Reese

ADMITTED in part, DENIED in part. It is ADMITTED only that Defendant Reese is employed by the Pennsylvania Department of Corrections. Any other factual averments made are DENIED.

ii. Defendant 2: Corrections Lieutenant Newberry

ADMITTED in part, DENIED in part. It is ADMITTED only that Defendant Newberry is employed by the Pennsylvania Department of Corrections. Any other factual averments made are DENIED.

iii. Defendant 3: Corrections Officer John Doe 1

This paragraph references a party, John Doe 1, who is not represented by this undersigned Counsel; therefore, no response is required.

iv. Defendant 4: Corrections Officer John Doe 2

This paragraph references a party, John Doe 2, who is not represented by this undersigned Counsel; therefore, no response is required.

v. Defendant 5: Corrections Officer John Doe 3

This paragraph references a party, John Doe 3, who is not represented by this undersigned Counsel; therefore, no response is required.

III. STATEMENT OF FACTS (This is an organizational heading to which no response is required. To the extent that a response is required, DENIED.)

A. DENIED.

B. DENIED.

C. DENIED.

IV. LEGAL CLAIMS (This is an organizational heading to which no response is required. To the extent that a response is required, DENIED.)

This is a conclusion of law to which no response is required. To the extent a response is required, DENIED.

V. **INJURY** (This is an organizational heading to which no response is required. To the extent that a response is required, DENIED.)

DENIED.

VI. **RELIEF** (This is an organizational heading to which no response is required. To the extent that a response is required, DENIED.)

This paragraph contains conclusions of law and requests for relief to which no response is required. To the extent that a response is required, DENIED.

AFFIRMATIVE DEFENSES

In addition to the DENIALS asserted above, Commonwealth Defendants assert the following Affirmative Defenses:

FIRST AFFIRMATIVE DEFENSE

Plaintiff's complaint fails to state any claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Commonwealth Defendants are immune from liability by virtue of absolute, qualified, official governmental, state sovereign, and/or any other immunity.

THIRD AFFIRMATIVE DEFENSE

Some or all of Plaintiff's claims are barred based on lack of personal involvement.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff may have failed to exhaust available administrative remedies regarding one or more of his claims required by the Prisoner Litigation Reform Act of 1995.

FIFTH AFFIRMATIVE DEFENSE

At no time have Commonwealth Defendants, either individually or in concert with others, deprived or sought to deprive Plaintiff of any rights, privileges, or immunities secured by him to the Constitution or laws of the United States.

SIXTH AFFIRMATIVE DEFENSE

Defendants had legitimate penological reasons for all decisions made and actions taken.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff is not entitled to some or all of the damages he seeks.

EIGHTH AFFIRMATIVE DEFENSE

Commonwealth Defendants have not acted with deliberate, intentional, or reckless indifference toward Plaintiff or his conditions of confinement.

Commonwealth Defendants reserve the right to assert additional Affirmative Defenses, as appropriate, that become available during the pendency of this litigation.

Respectfully submitted,

JOSH SHAPIRO
Attorney General

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Harrisburg, PA 17120
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Date: May 10, 2021

By: s/ Mary Katherine Yarish
MARY KATHERINE YARISH
Deputy Attorney General
Attorney ID #328843

KAREN M. ROMANO
Chief Deputy Attorney General
Civil Litigation Section

Counsel for Commonwealth Defendants
Reese and Newberry

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CERTIFICATE OF SERVICE

I, Mary Katherine Yarish, Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on May 10, 2021, I caused to be served a true and correct copy of the foregoing document titled Commonwealth Defendants' Answer & Affirmative Defenses to the Plaintiff via hand delivery through staff of the Pennsylvania Department of Corrections. This alternative method of service is being used temporarily as a result of the COVID-19 pandemic.

VIA HAND DELIVERY

Clinton F. Hitner, GJ-8177
SCI Greene
Pro Se Plaintiff

s/ Mary Katherine Yarish
MARY KATHERINE YARISH
Deputy Attorney General